



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

SMC
Docket No: 02503-99
16 November 2000

CWO [REDACTED] SN

Dear Chief Warrant Officer [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 28 December 1999 and 10 January 2000, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion dated 28 December 1999 in concluding your request to correct your fitness report record should be denied. Your reporting senior's statement of 11 March 1999, to the effect he allowed a single incident to excessively affect your mark in "military bearing/character," did not persuade the Board that the contested original report, dated 1 September 1997, was erroneous or unjust. Since they found no defect in the original report, and they had no basis to conclude that the supplemental report should have been submitted in time for consideration by the Fiscal Year 99 Chief Warrant Officer 3 Selection Board, they had no grounds to remove your failure of selection by that promotion board. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this

regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



2503-99

DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
28 December 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: CWO [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his original fitness report for the period 1 April 1997 to 7 September 1997 and letter supplement dated 11 March 1999 replacing it with a supplemental fitness report for the same period.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed both the original and supplemental fitness reports to be on file with the required cover letter. The original and supplemental reports were signed by the member acknowledging the contents of each report and his right to submit a statement. The member did not desire to submit a statement.

b. The supplemental report changes block-35 from 2.0 to 4.0. The member's promotion recommendation remains the same. There is no letter supplement filed in the member's record as the member states. The letter the member refers to is a cover letter, required for submission of a supplemental fitness report.

c. We make provisions for the submission of supplementary material concerning fitness reports so that the commanding officer may clarify, amend, or correct a report. The fact that the revision is a better report should have no bearing on whether the original is retained or removed. Substitution of the revised report for the original should only be accomplished when the member demonstrates that retention of the original would constitute an error or injustice. Nothing in the petition or in the forwarding letter for the revised report explains why or how the revision more accurately reflects the petitioner's performance or that the original report was unjust or in error. The original and revised reports are filed together with the letter of transmittal. They provide a complete picture of Chief Warrant Officer [REDACTED] performance as first evaluated, and then after the reporting senior had the opportunity to reconsider.

- d. It should be noted the member was promoted to CWO3 effective 1 October 1999.
 - e. Failure of selection is not sufficient reason to remove a fitness report.
 - f. The member does not prove the report to be unjust or in error.
3. We recommend the member's record remain unchanged.



Head, Performance
Evaluation Branch

2503-99



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

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10 Jan 00

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: CWC [REDACTED] USN [REDACTED]

Ref: (a) PERS-311 memo 1610 of 28 Dec 99

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of [REDACTED]'s request.
2. Based on the recommendation provided in reference (a), removal of [REDACTED]'s failure of selection cannot be supported. However, if removal of the supplemental report is ultimately determined by the Board of Correction of Naval Records, then failure of selection removal consideration should be made accordingly. Removal of the report would substantially improve the competitiveness of his record amongst his peers.
3. Recommend disapproval of his request.

[REDACTED]
BCNR Liaison, Officer Promotions and
Enlisted Advancements Division